REMARKS

The Applicant is responding herein to an Office Action mailed on March 24, 2005. At the time of the Office Action, claims 1-20 were pending. In the present response, new claims 21-23 have been added. Claims 1, 9, and 13 have been amended. No claims have been canceled. Accordingly, claims 1-23 are currently pending.

In the Office Action, the Examiner rejected claims 1-2, 4, 8, 9-14 and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,790,895 to Krontz et al. ("Krontz"). Claims 3, 5 and 15 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Krontz in view of U.S. Patent Publication 20020032785 to Britt Jr. et al. ("Britt"). Claims 6, 7 and 16 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Krontz in view of U.S. Patent No. 6,671,343 B1 to Tsugio Ito ("Ito"). These rejections are addressed in detail below.

Rejections under 35 U.S.C. § 102(b)

The Examiner rejected claims 1-2, 4, 8, 9-14 and 17-20 under 35 U.S.C. § 102(b) as being anticipated by Krontz. Specifically, the Examiner stated:

> 2. Claims 1-2,4,8,9-14,17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Krontz et al. U.S. Patent # 5,79,895 (hereinafter Krontz).
> As per claim 1, Krontz teaches a remote server management controller (Fig. 1a, Fig 1b), comprising: an external communication interface (Fig. 1A element 149) adapted to receive data from a remote user (column 12 lines 17-36);
> The reference teaches the modem (external communication interface) receives the incoming call and examines the first characters from the incoming call (receiving data) from the remote user

-an lOP adapted to: receive data from the external communication interface (column 10 lines 46-64); and

The reference teaches the processor (IOP) receives data from the modem (external communication interface).

-transmit data corresponding to the data received from the external communication interface to an OS of a managed server; and a VCD interface adapted to intercept data received from the OS, the data received from the OS being intended for a specific communication interface, and to redirect the data received from the OS to the remote user via the external communication interface instead of ,directing the data received from the OS to the specific communication interface (column 10 lines 55- 67)(column 11 lines 1-9, lines 26-45)(column 12 lines 17-36).

The reference teaches sending the resource data to the operating system of the server and the Virtual communication port of the device intercepts the data. The data is sent to the remote computer (remote user) via the modem (external communication port).

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As per claim 9, Krontz teaches a remote server management controller, comprising:

-an IOP adapted to monitor interrupt data transmitted from an SIO to a southbridge (column 9 lines 25-34), to alter the interrupt data transmitted from the SIO based on input received from an external user via an external communication interface and to transmit the altered interrupt data to a managed server (column 9 lines 25-56) ; and

-a VCD adapted to: intercept responsive data intended to be transmitted to the SIO in response to the altered interrupt data; and prevent the responsive data from reaching the SIO (column 10 lines 26-43).

The reference teaches the virtual communication port (VGD) to intercept the accesses (data) and prevents it from reaching the SIO.

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As per claim 13, Krontz teaches a method of remotely retrieving data from an OS, the method comprising the acts of:

-receiving a request for OS information from a remote user (column 12 lines 57- 60);

-transmitting the request for OS information to the OS (column 10 lines 64- 67)(column 11 lines 1-5)(column 12 lines 48- 62);

-receiving data responsive to the act of transmitting the request to the OS, the data being intended for a specific communication interface (column '10 lines 55- 67)(column 11 lines 1-9, lines 26-45)(column 2 lines 17-36);

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-redirecting the data received from the OS responsive to the act of transmitting the request to the OS to the remote user instead of to the specific communication interface (column 10 lines 55-67)(column 11 lines 1-9, lines 26-45)(column 12 lines 17- 36).

Office Action, pp. 2-5.

The Applicant respectfully traverses the rejection. Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every element or step of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Thus, if the claims recite even one element not found in the cited reference, the reference does not anticipate the claimed invention.

Krontz cannot anticipate independent claims 1, 9, and 13, because Krontz does not include each and every element recited in those claims. For example, independent claim 1 recites a "VCD interface ... *comprising a pre-defined standard communication interface....*" Independent claim 9 recites a "VCD *that comprises a pre-defined standard communication interface....*" Independent claim 13 recites: "transmitting [data] *via a VCD interface comprising a pre-defined standard communication interface....*"

In contrast to the claimed subject matter, Krontz discloses "an apparatus which shares a resource ... between [computer applications] ...." Krontz, col. 2, lines 43-45. "More

specifically, [the] apparatus [is] for sharing [a] modem between an operating system and a remote console [program]." Krontz, col. 1, lines 6-9. Krontz makes use of a "virtual port [which] divert[s] accesses ... directed at [the] communication port and buffer[s] the accesses in said virtual port." Krontz, col. 34, lines 62-64. Both the virtual port and the communication port in Krontz are integrally tied to the operating system ("OS"). *See e.g.* Krontz, col. 11, lines 45-47 ("The virtual communication port ... provides sufficient functionality for the operating system to note that the communication port ... exists during the boot process.").

In other words, Krontz discloses a system in which the virtual.port, communication port, and OS are specifically configured to work together. In contrast, the use of a "pre-defined standard communication interface" in claims 1, 9, and 13, is not tied to the OS at all. It is automatically able to function together with any OS that supports the standard communication interface, and needs no reconfiguration if swapped from one such OS to another.

For at least these reasons, it is clear that Krontz does not contain each and every element set forth in independent claims 1, 9, and 13, or the claims dependent thereon. Krontz therefore fails to anticipate independent claims 1, 9, and 13, as well as the claims dependent thereon. Accordingly, the Applicant requests withdrawal of the rejection under Section 102 and allowance of the rejected claims.

Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 3, 5, and 15 under 35 U.S.C. § 103(a) as being rendered obvious by Krontz in view of Britt. Claims 6, 7 and 16 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Krontz in view of Ito. The Applicant respectfully traverses the rejections.

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Claims 3, 5, and 15

Claims 3 and 5 depend from independent claim 1, and claim 15 depends from independent claim 13. The Applicant respectfully submits that claims 3, 5 and 15 are allowable based on these dependencies, because Britt does not cure the deficiencies regarding Krontz, which are described above. Specifically, Britt does not disclose a VCD that employs a "pre-defined standard communication interface." For at least these reasons, claims 3, 5 and 15 are believed to be allowable over the cited references taken alone or in combination with each other. Thus, the Applicant respectfully requests withdrawal of the rejection of claims 3, 5 and 15.
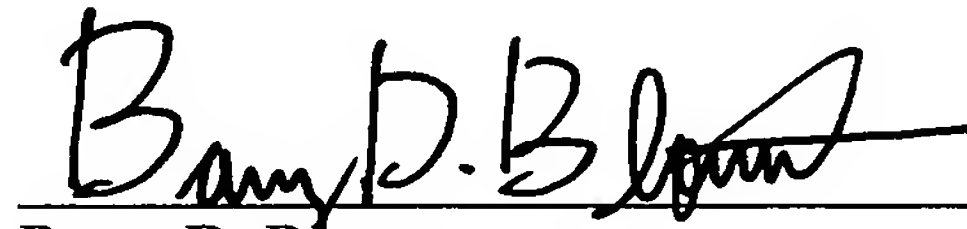
Claims 6, 7 and 16

Claims 6 and 7 depend from independent claim 1, and claim 16 depends from independent claim 13. The Applicant respectfully submits that claims 6, 7 and 16 are allowable based on these dependencies, because Ito does not cure the deficiencies regarding Krontz, which are described above. Specifically, Ito does not disclose a VCD that employs a "pre-defined standard communication interface." For at least these reasons, claims 6, 7 and 16 are believed to be allowable over the cited references taken alone or in combination with each other. Thus, the Applicant respectfully requests withdrawal of the rejection of claims 6, 7 and 16.

Conclusion

In view of the remarks set forth above, the Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of all pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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